District Court of the State of Wyoming
Fourth Judicial District, Sheridan County

Lyndsey Calentine, Jay Calentine, Nancy Stephens, and Jonathan Sisson, Petitioners, vs. Sheridan County School District No. 2, Scott Stults, Superintendent in his official capacity, Susan Wilson, School Board Chair, in her official capacity, Arin Waddell, School Board Vice-Chair, in her official capacity, Shane Rader, School Board Treasurer, in his official capacity, Mary Beth Evers, trustee, in her official capacity, Ed Fessler trustee, in his official capacity, Ann Perkins, trustee, in her official capacity, Wayne Schatz, trustee, in his official capacity, Dana Wyatt, trustee, in her official capacity, Respondents.	CV 2021-344 No. District Court Sheridan County, Wyoming SEP 22 2022 Rene Botten, Clerk Deputy

ORDER GRANTING SUMMARY JUDGMENT

This matter came before the Court on Respondents' Motion for Summary Judgment filed on June 16, 2022. Petitioners filed their Response in Opposition to Respondent's Motion for Summary Judgment on June 28, 2022. A hearing was held on August 16, 2022. Respondents ("SCSD2") were represented by Mr. Kendal Hoopes and Petitioners ("Parents") were represented by Ms. Carrie Sisson. The hearing was not reported. Having reviewed the file and being otherwise fully informed, the Court finds and orders as set forth below.

STANDARD OF REVIEW

Rule 56 of the Wyoming Rules of Civil Procedure requires a court to grant a party summary judgment "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." W.R.C.P. 56(a); *see also* W.R.C.P. 56(c). Summary judgment is appropriate only when no genuine issues of material fact exist, and the prevailing party is entitled to have a judgment as a matter of law. *See, e.g., Cosco v. Lampert*, 229 P.3d 962, 966 (Wyo. 2010); *Provence v. Hilltop Nat'l Bank*, 780 P.2d 990, 992–93 (Wyo. 1989). "A genuine issue of material fact exists when a disputed fact, if proven, would have the effect of establishing or refuting an essential element of the cause of action or defense which the parties have asserted." *Cosco*, 229 P.3d at 966; *Provence*, 780 P.2d at 992–93. The Court examines the record from the vantage point most favorable to the party who opposed the motion, giving that party the benefit of all favorable inferences that may fairly be drawn from the record. *Retz v. Siebrandt*, 181 P.3d 84, 90 (Wyo. 2008) (citing *Platt v. Creighton*, 150 P.3d 1194, 1198–99 (Wyo. 2007). A motion for summary judgment places an initial burden on the movant to make a *prima facia* showing that no genuine issues of material fact exist. *Boehm v. Cody Country Chamber of Commerce*, 784 P.2d 704, 710 (Wyo. 1987). Once the movant has made that initial showing, the burden shifts to the non-movant to present specific facts showing that genuine issues of fact do exist. *Id.*

FACTUAL BACKGROUND

The relevant factual background preceding Parents' lawsuit is as follows. Sheridan County School District No. 2 (the "District") is a unified school district in the State of Wyoming encompassing the City of Sheridan and its surrounding areas. The school district is governed by nine (9) elected board members consisting of the following individuals: Susan Wilson, School Board Chair, Arin Waddell, School Board Vice-Chair, Shane Rader, School Board Treasurer, Shellie Szmyd, School Board Clerk, Mary Beth Evers, Ed Fessler, Ann Perkins, Wayne Schatz, and Dana Wyatt. Collectively, they make up the board of trustees for the District ("Board of Trustees"). (Petitioner's Compl., ¶2; Respondents Rule 56.1 Statement, ¶1). Scott Stults is the Superintendent of Schools for the District. (Respondents Rule 56.1 Statement, ¶1).

On March 19, 2020, the Wyoming State Health officer entered an order to close public places, including schools, to help slow the spread of COVID-19. The health order was extended

three (3) times and ultimately resulted in the closing of all schools in the district for the remainder of the 2019-2020 school year. During this time, the District provided remote learning to its students utilizing Zoom and other electronic means of communication to allow its teachers to continue providing an education to their students. (Respondents' Rule 56.1 Statement, ¶4). In response, prior to the 2020-2021 school year, the Wyoming Department of Education ("WDE") required school districts in the State to prepare a "Smart Start" COVID-19 Plan before the start of the school year and to submit the plan to the WDE for approval. SCSD2's Smart Start Plan was made after consultation with Dr. Ian Hunter, M.D., the Sheridan County Health Officer. This plan was approved by the WDE ("2020 Plan"). (Scott Stults Aff., ¶6). The 2020 Plan included a face covering requirement, home screening, adherence to state and local guidelines for staff and/or students testing positive, and contact tracing.

In advance of the 2021-2022 school year, the WDE notified school districts that it was working closely with the Wyoming Department of Health ("WDH") and other agencies to monitor COVID-19 activity and recommended that school districts work directly with their local community health department to establish protocols to control the spread of COVID-19. The WDE also recommended that school districts educate employees and students on preventing the spread of COVID-19. Pursuant to this guidance, on August 9, 2021, SCSD2 adopted a COVID-19 plan for the 2021-2022 school year ("2021 Plan"). Face coverings were optional under the 2021 Plan. The Board of Trustees and District administration consulted with Dr. Hunter in preparing this plan. (Scott Stults Aff., ¶8-9).

On August 27, 2021, Dr. Hunter authored a letter to the District outlining his request that face coverings be required for all staff and students. (Scott Stults Aff., Exhibit B). On August 30, 2021, the Board of Trustees modified the 2021 Plan to create the plan at issue (the "Plan"). The modified plan required face coverings to be worn in all school district facilities by staff, students, and visitors. (Petitioners' Compl., Exh. C; Scott Stults Aff., Exh A). The Plan also contained a number of other components to help limit the spread of COVID-19, including adherence to state and local guidelines for quarantine and isolation for positive cases, contact tracing, home screening for COVID-19 symptoms, remote learning for students required to stay home because of a positive test of close contact, encouragement of testing, and return to play protocols for student-athletes. The Plan also provided for reevaluation every two (2) weeks based on the circumstances present in Sheridan County and guidance from local health officials. *Id.* The Plan was established in

consultation with Dr. Hunter as the Sheridan County Health officer. The purpose of the Plan was to limit the spread of COVID-19 in SCSD2 schools, to implement measures recommended by the Sheridan County Health Officer for the protection of staff and students from COVID-19, to limit the number of staff and students who are required by state of local guidelines to stay home from school, and to allow SCSD2 to remain open so as to provide in-person learning to its students. (Scott Stults Aff., ¶13). Students who were required to stay home from school because of state and/or local guidelines pertaining to quarantine/isolation due to a positive case or close contact were provided with the opportunity for remote learning, homeschooling, or enrollment at a private or religious school situated in Sheridan, Wyoming. (Respondents' Rule 56.1 Statement, ¶13-14). This same accommodation was offered to those students who chose not to attend in-person schooling at one of the District's public schools. *Id.*

On November 12, 2021, Dr. Hunter sent another letter to the District advising that it could remove the face covering requirement and indicated that face coverings would only be "strongly recommended." (Scott Stults Aff., Exhibit D). The Board of Trustees called a special meeting where they revised the Plan to remove the mandatory face covering requirement. (Respondents' Rule 56.1 Statement, ¶18).

On April 11, 2022, the Plan was once again revised. The current plan does not require face coverings but continues to maintain protocols for students or staff who test positive for COVID-19 or who come into close contact with a positive case. (Respondents' Rule 56.1 Statement, ¶19).

UNDISPUTED MATERIAL FACTS

The salient facts in this case are not in dispute. The District is governed by nine (9) elected board members who collectively make up the Board of Trustees. (Respondents' Rule 56.1 Statement, ¶1, 2; Petitioners' Response to Respondents' Rule 56.1 Statement, ¶1, 2). Mr. Scott Stults is the Superintendent of SCSD2. (Respondents' Rule 56.1 Statement, ¶2; Petitioners' Response to Respondents' Rule 56.1 Statement, ¶2). The board has delegated to Mr. Stults, the power to manage the schools within its district. (Respondents' Br., p. 4). On March 19, 2020, the Wyoming State Health Officer entered an order to close public places, including schools, to help slow the spread of COVID-19, requiring SCSD2 to deliver remote learning to students in furtherance of their educational goals. (Respondents' Rule 56.1 Statement, ¶4; Petitioners' Response to Respondents' Rule 56.1 Statement ¶4). The Plan was instituted by SCSD2 in response to the COVID-19 pandemic in an effort to continue providing education. (Respondents' Rule 56.1

Statement, ¶12; Petitioners' Response to Respondents' Rule 56.1 Statement, ¶12). The Plan required all staff, students, and visitors to wear face coverings inside school district facilities except in certain limited circumstances. (Respondents' Rule 56.1 Statement, ¶12; Petitioners' Response to Respondents' Rule 56.1 Statement, ¶12). Students who were required to stay home from school because of state and/or local guidelines pertaining to quarantine/isolation for positive cases or contact tracing (or for those who did not desire to attend in-person schooling at SCSD2) were provided with an option to participate in SCSD2's virtual high school, enroll in homeschooling, enroll in a private or religious school, or enroll in a public virtual K-12 school available to Wyoming students free of charge.[1] (Respondents' Rule 56.1 Statement, ¶13-14). In November of 2021, SCSD2 revised the Plan to remove the face covering requirement, making face coverings only a recommendation. (Respondents' Rule 56.1 Statement, ¶18, 19; Petitioners' Response to Respondents' Rule 56.1 Statement, ¶18, 19). Face coverings continue to only be a recommendation to this day. *Id.*

LEGAL ANALYSIS

I. SCSD2 is granted broad power to operate public schools

SCSD2's enactment of the Plan and endorsement of its subsequent modifications was a valid exercise of its authority pursuant to Wyoming law. On the issue of education, the Wyoming Supreme Court has reiterated, "[i]n the light of the emphasis which the Wyoming Constitution places on education, there is no room for any conclusion but that education for the children of Wyoming is a matter of fundamental interest." *In re RM*, 2004 WY 162, ¶ 13, 102 P.3d 868, 873 (Wyo. 2004) (quoting *Washakie County Sch. Dist. No. One v. Herschler*, 606 P.2d 310, 333 (Wyo.1980)). Wyo. Const. art. 7, §1 provides: "[t]he legislature shall provide for the establishment and maintenance of a complete and uniform system of public instruction, embracing free elementary schools of every needed kind and grade, a university with such technical and professional departments as the public good may require and the means of the state allow, and such other institutions as may be necessary."

Courts have been keenly aware of the evolving nature of society as it relates to education and its constitutional significance.

[1] Parents do not dispute that their children were provided with alternative schooling options. Instead, they hold the position that the alternatives were unworkable given their unwillingness to wear face coverings, their children's ages, and the cost of private education. (Petitioners' Br. ¶13-14).

> we must be mindful our state constitution is, 'in a sense, a living thing, designed to meet the needs of progressive society, amid all the detail changes to which such society is subject.' Recognizing educational philosophy and needs change constantly, we believe the language of those education article provisions requiring 'a complete and uniform system of public instruction' and 'a thorough and efficient system of public schools, adequate to the proper instruction of all youth of the state' must not be narrowly construed. Indeed, since this court has held the right to a quality education under our state constitution is a fundamental right, that right must be construed broadly.

Campbell Cnty. Sch. Dist. v. State, 907 P.2d 1238, 1257–58 (Wyo. 1995) (internal citations omitted). Legislative history reveals that the framers intended "the education article as a mandate to the state legislature to provide an education system of a character which provides Wyoming students with a uniform opportunity to become equipped for their future roles as citizens, participants in the political system, and competitors both economically and intellectually." *Campbell Cnty. Sch. Dist.,* 907 P.2d at 1259 (Wyo. 1995) (quoting *Kukor v. Grover*, 148 Wis.2d 469, 436 N.W.2d 568, 589–90 (1989)).

To effectuate this mandate, the legislature enacted the Wyoming Education Code, Wyo. Stat. §§21-1-101 et seq., which provides a comprehensive framework for the operation of public schools. This includes a delegation of duties to the state superintendent (Wyo. Stat. §21-2-202), the state board of education (Wyo. Stat. §21-2-304), and notably to local school boards (Wyo. Stat. §21-3-110) where the legislature has delegated its duties with respect to the operation of public schools. Wyo. Stat. §21-3-110(a)(i) directs that

> the board of trustees in each school district *shall* prescribe and enforce rules, regulations and policies for its own government and for the government of the schools under its jurisdiction. Rules and regulations shall be consistent with the laws of the state and rules and regulations of the state board and the state superintendent and shall be open to public inspection.

Wyo. Stat. §21-3-110(a)(i) (emphasis added). Further, Wyo. Stat. §21-3-105 provides that "[t]he boards of trustees of a school district shall be the governing body of the school district." This delegation of duties has long been recognized as a valid allocation of power. *Chicago, B. & Q.R. Co. v. Byron School Dist. NO. 1*, 260 P. 537, 539 (Wyo. 1927).

Aside from statutory authority, Wyoming case law makes clear that school districts are required to provide an equal opportunity for a quality education, not necessarily an equal outcome, particularly if its rules and regulations are not observed by the students under its control.

> Article 1 § 23 of the Wyoming Constitution states: 'the right of the citizens to opportunities for education should have practical recognition. The legislature shall suitably encourage means and agencies calculated to advance the sciences and liberal arts.' As can be seen by the language of the constitution, the fundamental right provided is an **opportunity** for an education. After considering the various provisions of the constitution related to education, we have noted '[t]he sense of Washakie was to require the legislature to examine the entire education system, including its funding, and reform it in order to provide an 'equal opportunity for a quality education.' The state's obligation then is to, 'provide an education system of a character which provides Wyoming students with a uniform opportunity to become equipped for their future roles as citizens, participants in the political system, and competitors both economically and intellectually.'
> The school district has provided such a system and, as a result, has given RM and BC an equal opportunity for a quality education. However, the fundamental right to an opportunity for an education does not guarantee that a student cannot temporarily forfeit educational services through his own conduct. Educational services are provided with reasonable conditions because the Wyoming constitution requires that all students receive an equal opportunity to a quality education. The actual receipt of educational services is accordingly contingent upon appropriate conduct in conformity with state law and school rules.

In re RM, 102 P.3d at 874 (Wyo. 2004) (emphasis in original) (internal citations omitted). Read in conjunction with one another, it is clear that the legislature has granted local boards broad authority to create and enforce rules that it believes are necessary to carry out its constitutional obligation of providing an opportunity for a quality education to students across the state. The only limitation that Wyo. Stat. §21-3-110 places upon a board of trustees is a requirement that its rules and regulations are consistent with the laws of the state, state board, and state superintendent.

Parents do not dispute that school districts have the power and authority to establish rules for the operation of their schools through this broad grant of legislative authority of Wyo. Stat. §21-3-110, rather Parents argue that the absence of a statute specifically granting authority to impose a face covering mandate means there is no authority whatsoever for the implementation of SCSD2's Plan. (Petitioners' Br., p. 5). To reach that conclusion the Court would have to discount the broad language contained in Wyo. Stat. §21-3-110. The analysis is not conducted in such a vacuum. Parents seek this limitation under *Sanders v. Brown, et al.*, 80 Wyo. 265, 341 P.2d 85, 87 (Wyo. 1959), asserting that school boards only possess power conferred by statute, either expressly or by necessary implication; *Campbell County School Dist. v. State*, 907 P.2d at 1263 (Wyo. 1995), suggesting that the court's constitutional interpretation means "the legislature has complete control of the state's school system in every respect" and limits SCSD2's authority; and *School Dist. No. 14 in Fremont County v. School Dist. No. 21 in Fremont County*, 67 P.2d 192 (Wyo. 1937), for

the proposition that "school districts are quasi-municipal corporations of the most limited power known to the law." Parents' citations to these cases miss the mark. First, the opinion *Sanders* was superseded by statute, punctuating the legislature's desire to make sure broadened powers extended to the local school board. *Sanders*, 341 P. 2d at 273 (1959); *Bixby v. Cross*, 384 P.2d 710 (Wyo. 1963). Following a subsequent challenge to board authority, local board action was affirmed in light of that newly amended statutory provision. *Bixby v. Cross*, 384 P.2d at 714 (Wyo. 1963). That the legislature took action to amend a statute to confirm the board's authority, is persuasive, if not supportive of SCSD2's position. Second, *Campbell County School District* involved the inequitable distribution of school financing, an often-litigated issue within the nation's school districts. The court delved into the constitutional history in which the framers feared the local control of finances for schools would result in inequity across the state. Yet, the court stated,

> so long as the constitutional mandates of a complete and uniform public instruction system and a thorough and efficient public school system which delivers proper instruction are met, nothing would appear to prohibit the legislature from delegating to local boards the authority of implementing that legislatively created and maintained system.

Campbell County School Dist., 907 P.2d at 1272 (Wyo. 1995). Again, this underscores the point that despite a challenge to its authority, the local board maintained control over the governance of schools under its jurisdiction. Third, Parents' citation to *School Dist. No. 14 in Fremont County* is wrought with error. Not only was the case reversed, but the quotation that Parents' attribute to the Wyoming Supreme Court—"school districts are quasi-municipal corporations of the most limited power known to the law"—is nowhere to be found within the document. Instead, that particular quotation was found within the case *School District v. City of Pasadena*, (Cal.) 134 P. 985 (Cal. 1913). Nevertheless, reference to that case is unpersuasive because it, too, was overruled.

Here, SCSD2 enacted a Plan pursuant to the authority granted to them under Wyoming law—it is wholly within SCSD2's duty to prescribe and enforce rules, regulations, and policies for the schools under its jurisdiction.

II. The Plan does not deprive the Parents of the right to make health care decisions or parent their children

SCSD2's Plan does not infringe upon Parents' right to make healthcare decisions for their school-aged children. Parents argue that face coverings are "medical devices," and thus SCSD2's

face covering requirement improperly substitutes the district as decision-makers on healthcare-related issues. There is no legal authority for this position.

Wyo. Const. art. 1, §38 provides:

> (a) Each competent adult shall have the right to make his or her own health care decisions. The parent, guardian or legal representative of any other natural person shall have the right to make health care decisions for that person.
> ...
> (c) The legislature may determine reasonable and necessary restrictions on the rights granted under this section to protect the health and general welfare of the people or to accomplish the other purposes set forth in the Wyoming Constitution.

The phrase "healthcare decision" is not specifically defined in Wyo. Const. art. 1, §38, but the phrase generally refers to a decision related to specific medical treatment and/or procedures, selection of healthcare providers, approval of tests or procedures, and/or directions to provide or withhold forms of healthcare. See e.g., Wyo. Stat. §35-22-402(a)(viii)-(ix). SCSD2 made no such decision. Even so, the United States Supreme Court has explained that "for many purposes school authorities act *in loco parentis*" meaning in place of the parents while children attend their respective schools. See *Veronica School Dist. 47J v. Acton*, 515 U.S. 646, 655 115 S.Ct. 2386, 2392 (1995) (upholding school student-athlete drug policy). Convincingly, various jurisdictions around the country have determined that a school district's face covering requirement does not amount to unauthorized medical treatment forced upon its students. See e.g., *Gunter v. North Wasco County School District Board of Education*, 2021, WL 6063672 at *9 (D. Oregon 2021) ("Plaintiffs assert that the mask mandate impairs their ability to make medical and other health care decisions on behalf of their children. This argument fails because the mask mandate no more required a 'medical treatment' than laws requiring shoes in public places...or helmets while riding a motorcycle"); *Franklin Square Union Free Sch. Dist.*, 2021 WL 4957893, at *18 (E.D.N.Y. 2021) (holding that a mask mandate not considered a medical treatment); *Lloyd v. Sch. Bd. of Palm Beach Cnty.*, 2021 WL 5353879, at *10 (S.D. Fla. 2021) (holding the circumstance of being required to wear a mask is distinguishable from compulsory medical treatment and does not implicate Plaintiffs' right to bodily autonomy).

Curiously, Parents acknowledge that SCSD2 does maintain authority, in some circumstances, to enact policies and rules that would have the effect of promoting the health and safety of its students, *i.e.* tobacco-free zones, basic playground rules, and healthy lunches provided

by the schools. (Petitioners' Br., p.13). At the hearing held on this matter, the Parents further conceded that requiring helmets—a piece of equipment analogous to a medical device—during sporting events falls squarely within the school district's power to ensure students are protected while engaged in school activities. This conflicting position of the Parents cannot be reconciled. Nonetheless, in a recent decision regarding this very issue, the Montana Supreme Court stated

> Implementing mandatory masking policies in settings with high COVID-19 levels is "no more a 'medical treatment' for virulent disease than a motorcycle helmet...is a treatment for a head injury." This comparison is especially apt in view of routine school policies requiring use of protective equipment for activities that present a risk of harm, such as playing football. And, when an individual is no longer engaged in the activity, the protective gear is no longer required – as with the masking policies at issue here.

Stand Up Montana v. Missoula County Public Schools, 2022 MT 153, ¶ 15, 2022 WL 3040220.

Remarkably, Parents claim that had Dr. Hunter, the local health officer, been the one to implement the face covering mandate, they would have had no basis to lodge a challenge because they recognize his authority under the law to issue such a directive. In fact, Parents went as far to concede that in the 2019-2020 school year, SCSD2 did in fact have authority to enforce a mask mandate under the statewide Public Health Order entered by Alexis Harrist and Dr. Hunter. (Petitioners' Br., p. 5). This recognition undermines Parents' claim that a face-covering mandate violates Wyo. Const. art. 1, §38—their right as parents to make healthcare decisions for their children—when they acquiesce to other governmental figures making those decisions (without their consent), so long as that mandate comes elsewhere than the local school board. At any rate, this argument ignores the clear language of Wyo. Stat. §21-3-110, which directs the school board of trustees to prescribe any rule or regulation for its own government and for the government of the schools under its jurisdiction so long as the rules and regulations are consistent with the laws of the state, state board, and state superintendent.

In instances where school districts were without authority to enact a face-covering mandate, those jurisdictions had clear laws proscribing such action by the local school district. *Wilson ex rel. State v. City of Columbia*, 434 S.C. 206, 863 S.E.2d 456 (2021) (holding that the City's mask mandate for students in grades K-12 was in direct violation of the Proviso enacted by the state legislature and thus void) *Scribner v. Treger*, 2022 WL 714654 (injunction originally granted as a violation of executive order prohibiting mask mandate – later dissolved on

jurisdictional challenges on appeal). These cases do not stand for the proposition that face coverings are medical devices or that only the public health authority of the state has the power to enact and enforce face covering mandates. Rather, they stand for the proposition that schools do not have the authority to impose a rule or regulation that is contrary to state law. No such face-covering prohibition exists in Wyoming. SCSD2 did not act contrary to the authority granted to it under Wyo. Stat. §21-3-110 by imposing a face covering requirement in the schools under its control.

Besides, even if face coverings were to be considered medical devices, the Wyoming State Board of Education and the WDE are directed by statute to promulgate rules governing education in the State of Wyoming. See Wyo. Stat. §21-2-304(a)(i), Wyo. Stat. §21-2-202(a)(i), and Wyo. Stat. §21-2-202(c). Through these rules, the WDE has established accreditation criteria for Wyoming school districts that contain a component for "student health" which requires school districts to ensure that: "[p]ersonnel and processes, including prevention programs, are in place to address the physical and mental health needs of all students enrolled in the district." Chapter 6, Section 5(t) of the WDE Rules and Regulations. For example, Wyo. Stat. §21-4-307(a)(ii) grants school districts the specific authority to deny admission to any child whose attendance would be inimical to the health, safety, or welfare of other pupils, and Wyo. Stat. §21-4-309 requires students attending public school to provide written documentary proof of immunization unless a waiver is first obtained. These statutes and regulations directly contradict Parents' argument that schools are prohibited from acting in any way that addresses or treats the health care needs of its students.

Based on the foregoing, SCSD2's Plan requiring the usage of face coverings was not a healthcare decision made by the district that impermissibly infringed upon the Parents' rights to make healthcare decisions for their children.

III. The Plan does not violate Parents' right to a free public education

SCSD2's enactment of the Plan does not violate Parents' right to free public education. Parents clearly take issue with the manner in which SCSD2 executes its policies and procedures; but, dissatisfaction with board governance is not the same thing as denial of an opportunity. It is the opportunity that matters. To be sure, Wyo. Cons. Art. 1, §23 provides "[t]he rights of the citizens to **opportunities** for education should have practical recognition. The legislature shall suitably encourage means and agencies calculated to advance the sciences and liberal arts."

(emphasis added); s*ee also In re RM*, 102 P.3d at 874 (Wyo. 2004). While this opportunity is fundamental, it is subject to rules and policies dictated by the local district. Without a doubt,

> Once parents make the choice as to which school their children will attend, their fundamental right to control the education of their children is, at the least, substantially diminished. So parents do not have a fundamental right generally to direct *how* a public school teaches their child. Whether it is the school curriculum, the hours of the school day, school discipline,...or...a dress code, these issues of public education are generally committed to the control of state and local authorities.

Branch-Noto v. Sisolak, 2021 WL 6064795, *4 (D.Nev.2021) (emphasis in original).

A decision to forego compliance paves way to educational alternatives—homeschooling, private schooling, or free public virtual schooling. It is undisputed that Parents were offered these alternatives. That they do not like these alternatives is immaterial to the analysis. Naturally, breaking with compliance does not guarantee that the educational alternative will be as attractive as the former offering.

> the fundamental right to an opportunity for an education does not guarantee that a student cannot temporarily forfeit educational services through his own conduct. Educational services are provided with reasonable conditions because the Wyoming constitution requires that all students receive an equal opportunity to a quality education. The actual receipt of educational services is accordingly contingent upon appropriate conduct in conformity with state law and school rules.

In re RM, 102 P.3d at 874 (Wyo. 2004) (internal citations omitted). Further, Parents are without authority to make demands upon SCSD2 to promote their individual interests, including calling for better alternatives to education outside of the in-person schooling so provided.

> Parents do not have a constitutional right to micromanage the operation of the schools. The school board decides whether to impose a dress code, whether to have indoor or outdoor physical activities, whether to prohibit certain attire, whether to have a longer or shorter lunch period, when to give examinations, whether to offer extracurricular activities, whether to offer agriculture or sports-medicine programs, and whether, in the interest of public health, to require face coverings. If parents are dissatisfied with the school board decisions, they have a remedy. It is the ballot box.

Bentonville School District v. Sitton, 643 S.W.3d 763, 774 (Ark. 2022). Wyoming law makes clear that SCSD2 is required to provide an equal opportunity for a quality education to all of the students under its control. It is undisputed that the district fulfilled that mandate. As such, Parents have not been deprived of their constitutional right to free public education.

CONCLUSION

For the foregoing reasons, SCSD2's enactment of the Plan was permissible under Wyoming law, and said action did not deprive Parents of their right to make health care decisions on behalf of their children, or deny them their right to free public education.

IT IS HEREBY ORDERED that SCSD2's Motion for Summary Judgment is **GRANTED.**

IT IS FURTHER ORDERED that Petitioners' Petition for Declaratory Judgment and for Damages for Deprivation of Rights is **DISMISSED** without prejudice.

DATED the 22 day of September 2022.

Darci A.V. Phillips
District Judge

Copies to:
Carrie Sisson
Kendal Hoopes